

SENATE BILL No. 85

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-4-15-1.

Synopsis: Disqualification for unemployment compensation. Reduces the qualifying period for unemployment benefits to four weeks. Allows a person who takes a better job and is discharged without just cause to remain eligible for unemployment benefits. Allows a person who is discharged for violation of an attendance policy to show good cause for the absences or tardiness. Defines "good cause" to include compelling family obligations, sexual harassment, and financial inability to maintain two residences.

Effective: July 1, 2005.

Craycraft

January 4, 2005, read first time and referred to Committee on Pensions and Labor.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 85

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 22-4-15-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) ~~With respect to~~
3 ~~benefit periods established on and after July 6, 1980;~~ An individual
4 who has voluntarily left the individual's most recent employment
5 without good cause in connection with the work or who was discharged
6 from the individual's most recent employment for just cause is
7 ineligible for waiting period or benefit rights for the week in which the
8 disqualifying separation occurred and until the individual has earned
9 remuneration in employment equal to or exceeding the weekly benefit
10 amount of the individual's claim in each of ~~eight (8)~~ **four (4)** weeks. If
11 the qualification amount has not been earned at the expiration of an
12 individual's benefit period, the unearned amount shall be carried
13 forward to an extended benefit period or to the benefit period of a
14 subsequent claim.
15 (b) When it has been determined that an individual has been
16 separated from employment under disqualifying conditions as outlined
17 in this section, the maximum benefit amount of the individual's current

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claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction will be raised to the next higher even dollar amount. The maximum benefit amount may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from the individual's employment if:

(A) the individual:

(i) left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of continued covered employment and betterment of wages or working conditions; ~~and~~

(ii) thereafter was employed on ~~said~~ that job; **and**

(iii) was not discharged for just cause;

(B) having been simultaneously employed by two (2) employers, the individual leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) the individual left to accept recall made by a base period employer.

(2) An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.

(3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this section for such leaving of work.

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement and who is otherwise eligible shall not be deemed to have left the individual's work voluntarily without good cause in connection with the work. However, if such individual subsequently becomes reemployed and thereafter voluntarily leaves work without good cause in connection with the work, the individual shall be deemed ineligible as outlined in this

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section.

(5) An otherwise eligible individual shall not be denied benefits for any week because the individual is in training approved under Section 236(a)(1) of the Trade Act of 1974 (**19 U.S.C. 2101 et seq.**), nor shall the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974 (**19 U.S.C. 2101 et seq.**)), and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974 (**19 U.S.C. 2101 et seq.**).

(6) An individual is not subject to disqualification because of separation from the individual's employment if:

- (A) the employment was outside the individual's labor market;
- (B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and
- (C) the individual actually became employed with the employer in the individual's labor market.

(7) An individual who, but for the voluntary separation to move to another labor market to join a spouse who had moved to that labor market, shall not be disqualified for that voluntary separation, if the individual is otherwise eligible for benefits. Benefits paid to the spouse whose eligibility is established under this subdivision shall not be charged against the employer from whom the spouse voluntarily separated.

(8) An individual shall not be subject to disqualification if the individual voluntarily left employment or was discharged due to circumstances directly caused by domestic or family violence (as defined in IC 31-9-2-42). An individual who may be entitled to benefits based on this modification may apply to the office of the attorney general under IC 5-26.5 to have an address designated by the office of the attorney general to serve as the individual's address for purposes of this article.

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual

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cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) As used in this section, "good cause" includes the following:

(1) Compelling family obligations of the individual.

(2) Sexual harassment of the individual in connection with the individual's employment.

(3) Financial inability of the individual to maintain two (2) separate places of residence.

~~(d)~~ **(e)** "Discharge for just cause" as used in this section is defined to include but not be limited to:

(1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;

(2) knowing violation of a reasonable and uniformly enforced rule of an employer;

(3) unsatisfactory attendance, **if including a violation of a reasonable and uniformly enforced attendance rule of an employer, unless the individual cannot can** show good cause for absences or tardiness;

(4) damaging the employer's property through willful negligence;

(5) refusing to obey instructions;

(6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;

(7) conduct endangering safety of self or coworkers; or

(8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction or for any breach of duty in connection with work which is reasonably owed an employer by an employee.

~~(e)~~ **(f)** To verify that domestic or family violence has occurred, an individual who applies for benefits under subsection (c)(8) shall provide one (1) of the following:

(1) A report of a law enforcement agency (as defined in IC 10-13-3-10).

(2) A protection order issued under IC 34-26-5.

(3) A foreign protection order (as defined in IC 34-6-2-48.5).

(4) An affidavit from a domestic violence service provider verifying services provided to the individual by the domestic violence service provider.

SECTION 2. [EFFECTIVE JULY 1, 2005] IC 22-4-15-1, as amended by this act, applies to claims for benefits that are made

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1 after June 30, 2005.

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